MONTANA LEGISLATIVE HISTORY

Chapter 255 1974

Bill H 634 S _____ Original bill & history ___C

H. Committee on Highways & Transportation			S. Committee on Agriculture, Livestock, & Irrigation		
Hearing Date(s)	Jan 24	✓C	Hearing Date(s)	Mar 01	✓C
	Feb 19	___C		Mar 04	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		3/4/74	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 24, 1974

The meeting of the Highway and Transportation Committee was called to order at 5:15 P.M., by Chairman Laas. The following members were absent: Representative Aageson, Rolfe, and Walborn. The bills to be heard this day are House Bills 634, 850, and 851.

House Bill 634: Ora Halvorson, chief sponsor of the bill explained the bill to the members of the committee. This bill is commenly known as the cattle on the highway bill. There has been 653 accidents caused by motorists hitting cattle on the roadway in the last two years. The responsibility of fencing these highways rests with the Montana Department of Highways and this bill would demand that all primary and secondary highways be fenced. Mrs. Halvorson then introduced many proponents. Mrs. Ardith L. Solberg, of Kalispell spoke on behalf of the families of the Valley. She presented and read numerous letters from people supporting this bill. Mrs. Anne Kittelson, of Columbia Falls also supported this bill and her testimony is attached. Melvin Hanson, Jr. of Kalispell spoke briefly and his testimony is attached to these minutes. His sister, Mrs Dorritt Moore spoke briefly and her testimony is attached. Other proponents of the bill were Ms. Patricia Collier and Conrad B. Fredricks, both of these testimony is also attached. Representative Joe Roberts, of the Libby area, being co-sponsor of the bill spoke briefly of the problems in the Kalispell-Libby areas and the necessity of having this bill passed. Jim Beck, of the Montana Department of Highways, stated a few of the legal problems this bill has. The Department of Highways's Director, Mr. H. J. Anderson, strongly suggested that this bill be held and the legal problems solved before it is passed. Mr. Jack Beckert, Montana Department of Highways, spoke on the cost of the bill. There are 855 miles of primary highway, 1,180 miles of secondary highway system. This would cost the state $9 million dollars to fence. Then upkeep on this fencing would run about $550,000 per year. This would take a 15% increase in the amount of the maintenance budget for next year. Mr. Everett Snortland lf the Montana Farm Bureau, stated his support of House Bills 850 and 851 and his opposition to House Bill 634. Paul Smith of the Montana Stockgrowers also stated his opposition to HB 634 and supported HB 850 and 851. Others stating their opposition to HB 634 and support of HB 850 and HB 851 were Clyde Sullivan and Bill Donnell, both ranchers.

House Bill 850: Representative Glen Jacobsen, chief sponsor of this bill explained the bill to the committee. He also proposed amendments to the bill which are attached to these minutes. The purpose of this bill is to fine the rancher, after two offences, for ahving his cattle on the roadway. A $10 per head fine was proposed. The fine would be imposed in a local court much the same was as any traffic violation. Representative Wally Edland, co-sponsor of the bill, also spoke in support of the bill. Mr. Conrad Fredricks spoke in favor of House Bill 850 and also Representative Lien. The only opponent on the bill, Mr. Mike Solburg, thought that House Bills 850 and 851 would run a little short. This still would not demand that the Highway Department

fence the highways and the job would not get done.
House Bill 851: Representative Jacobsen, chief sponsor of this bill spoke to the committee on the bill. This bill would give the voters and the people the option. They could request that the highway be fenced if it was needed. The Highway Department proposed an amendment that whereever Highway Commission was emntioned in the bill that it be replaced by Highway Department. Supporters of this bill were Paul Smith, Montana Stockgrowers; Clyde Sullivan and Bill Donald, ranchers.

The meeting was adjourned at 6:45 p.m.

Representative Walter Laas, Chairman

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Analysis of House Bill No. 634

Section 1.

The safer highways and high incidence of fatalities bit may be a little hard to justify statistically as a reason for a bill of this magnitude. In 1972, there were 16,262 traffic accidents reported to the Montana Highway Patrol. Of these, 412 (2.5%) involved wild animals and 445 (2.7%) involved domestic animals.

Perhaps the sponsor would amend the bill to require the Fish and Game Commission to erect deer-tight fences along all of the highways of the state.

Section 2.

Note the deletions from present law. Deleted is the requirement that, where a fence is constructed, adequate stock gates or stock passes, as necessary, shall be provided to make land on either side of the highway usable for livestock purposes.

(1) Self-explanatory. Doesn't require any hazard to be shown, as present law does. Is vague and difficult to apply.

(2) Self-explanatory. Very vague and difficult to apply.

(3) Self-explanatory. Assumes that all "open range", as defined, is hazardous.

(4) Self-explanatory.

Section 3.

With the time limit imposed, this could well be a very difficult and expensive proposition for the Department to comply with.

Section 4.

Self-explanatory. It is unclear as to whether the hearing would include comments of the delineation of open range areas, as well as the designation of high hazard and low hazard areas.

Section 5.

This section apparently makes the Department an insurer of a motorist exercising due care in a high hazard area,

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unless it can prove that it exercised due care and prove that the owner of the animal was negligent or willfully allowed the animal onto the highway. This would seem to provide an incentive for the department to designate, pursuant to Section 4, as little of the highway as it could as a high hazard area.

Section 6.

This would appear to make the owner of stock an insurer of a motorist exercising due care in a low hazard area, unless the owner can prove that the Department neglected its duty to give "adequate warning" (whatever that might mean). This would again give the Department incentive to limit high hazard areas to as little as possible.

Section 7.

This makes the Department and/or owner of the stock an insurer of anyone involved in an accident involving livestock, under the circumstances outlined above.

Section 8.

Self-explanatory. It is not mandatory upon the Department to install gates and cattle guards.

RECODIFICATION OF THE LAWS OF THE DEPARTMENT OF HIGHWAYS

This is an explanation of the proposed recodification of the laws pertaining to the Department of Highways. Most of the laws relating to the Department of Highways are found in Title 32 of the Revised Codes of Montana. Other statutes in the Codes which refer to the Department or which are administered by it are found primarily in Title 53, Chapters 1 and 5 through 7. The amount of law relating to this Department is considerable, and, consequently, the bill for this proposed recodification is larger than for some of the other departments.

Although some of the highway laws were recodified in 1965, there are still a great many obsolete and archaic statutes which need to be rewritten or repealed. This recodification recommends these changes where needed.

The Executive Reorganization Act, as amended by the Legislature in the 1971 session, is somewhat vague on exactly who performs certain functions under the highway laws. All of the functions of the Highway Commission and of the old Highway Department were transferred to the new Department of Highways, with the Director of Highways as department head. However, the Executive Reorganization Act also provides that the functions of the Director as the head of the Department are "subject to the concurrence of the Highway Commission." (See Section 82A-707 in the Reorganization Act.) Nowhere else in the Act does it say what the Commission is supposed to do, once the Department is reorganized. This language is at best unclear, because it does not state what "concurrence" means, whether or not the functions of the Department must be concurred in in advance, or even what specific functions of the Department need to be concurred in by the Commission. Consequently, a legal interpretation has been reached that the Commission must at least formally concur in those actions of the Department

which grant or deny rights or privileges to members of the public. If the Commission does not do so, those actions may be invalid.

This vague language has resulted in the Commission performing functions it did not perform before reorganization (such as concurring in the issuance of G.V.W. permits), and in not performing functions it did prior to reorganization. Furthermore, the administration of the Department under this vague language becomes unwieldly and is always open to potential attack.

In order to rectify this situation, it is recommended in this recodification that the statutes be expressly amended to clearly delineate and separate the functions of the Highway Commission from those of the Department. The best way to accomplish this is by naming either the Commission or the Department as the performer of each particular function set out in the statutes.

The decision had to be made in this recodification as to what functions the Commission should perform, and what functions the Department should perform. It was concluded, after consultation with Department personnel, and after reviewing the legislative intent of the amendments made by it to the Reorganization Act, that the Commission should perform those functions which establish broad policy and set the guidelines for the Department. Consequently, guidelines were established for the purpose of making the agency name-changes in this recodification. The guidelines provide that the Commission would perform the following functions:

(1) Select the routes of federal-aid highways and state highways;

(2) Select the points of connection of those highways with other public highways;

(3) Designate the highways to be included within the federal-aid systems or within the state highways system;

(4) Abandon federal-aid or state highways;

(5) Designate the control of access to highways;

(6) Let contracts for the construction of and work on all federal-aid and state highways;

(7) Accept work once it is completed under a contract let by the Commission;

(8) Adopt rules under the junk yard, outdoor advertising, and moving expense laws;

(9) Hold appellate hearings;

(10) Revoke, cancel, or suspend G.V.W. permits;

(11) Set speed limits.

All other functions under the highway laws are proposed to be given to the Department. It should be pointed out that the agency name changes made in this recodification may be of a substantive nature, since, as pointed out above, the law is now unclear on what functions the Commission or the Department are to perform.

It is proposed in this recodification that several sections be renumbered so as to place them in a more appropriate location in the Revised Codes. In addition, it is proposed that some sections be split into several separate sections to make them less lengthy and easier to amend in the future.

Generally, the proposed recodification makes no substantive changes in the law, but merely rewrites it in updated and clearer language. However, other than the possible substantive name changes explained above, minor substantive changes are suggested in a few areas. These changes are very minor and have no effect on the policies set down in the law on how the highways in this state are to be constructed, maintained, etc. Where substantive changes are suggested, these are noted in the comments following.

For the most part, only sections requiring name change in accordance with the name-change guidelines outlined above were amended. However, a few sections

that required no name changes were amended for clarity or renumbering.

Altogether, 180 sections of the Revised Codes are proposed to be amended by the recodification, and it is proposed that 63 sections be repealed.

A section-by-section indication of the proposed disposition of each section of the highway laws is contained in the reference table which follows.

REFERENCE TABLE--RECODIFICATION OF LAWS OF DEPARTMENT OF HIGHWAYS

This table shows the recommended disposition of each section of the highway laws in the recodification. It indicates whether a section is to be amended, repealed, or left unchanged. If the section is proposed to be amended or repealed, the reason for the amendment or repeal is given. Some sections are proposed to be renumbered; when this is proposed, it is indicated in parentheses following the word "amended."

Section	Change	Reason
11-614	Amended	Under the name-change guidelines outlined in the explanation above for the recodification of the laws of the Department of Highways, the Highway Commission will establish the "routes" of state highways. The word "route" is substituted here for "location or reconstruction" to make the language consistent with the same terminology used in Title 32, the general highway code. "Or order" is inserted after "resolution" because the Commission may use that method of establishing routes, rather than just a resolution. The name was changed in the second sentence in accordance with the aforementioned name-change guidelines.
11-1023	Amended	Name and style changes, and superfluous language removed. The Department constructs highways, so therefore it should also contract with local units of government to construct. The Commission would continue to let the contracts under the last sentence, as required by 32-4101 and the name-change guidelines.
32-101	Repealed	This section merely states that "This act shall be known as the "General Highway Law." It is now obsolete; there is no "act," since the bulk of the highway laws were recodified in 1965. Also, a section such as this adds nothing to the Codes.

Section	Change	Reason
32-301	Repealed	This section, which provides that the county clerk must keep records of meetings of boards of county commissioners pertaining to highways, is covered by Section 16-908.
32-315	Repealed	This section states that a particular act of 1919 (since repealed and recodified) is an emergency law. Such a section is unneeded and obsolete.
32-317	Amended (Renumbered 32-2816)	
32-318	Amended (Renumbered 32-2817)	Style changes
32-319	Amended (Renumbered 32-2818)	Style changes
32-320	Amended (Renumbered 32-2819)	The Department of Livestock is inserted to make it clear that a state stock inspector is an employee of that Department, and not a separate office.
32-321	Amended (Renumbered 32-2820)	Style changes
32-414	Repealed	This section, which provides for removal of fences near roads, is never used and is obsolete.
32-417	Repealed	This section, which refers to defects in proceedings, is obsolete because the proceedings to which it refers have been repealed.
32-508	Repealed	This section, which refers to amount of damages in condemnation proceedings is obsolete, because the rest of the act to which it refers has been repealed.
32-527	Repealed	This section, which pertains to the construction of an act, should be repealed because the act to which it refers has been repealed.
32-712	Repealed	This section, which pertains to the construction of an act, should be repealed, because the act which it refers to has been repealed.
32-716	Repealed	This section, which provides for allocation and apportionment of funds is obsolete because it

Section	Change	Reason
		refers to repealed acts and is covered in other sections in Chapter 26.
32-1001	Repealed	This section, which pertains to damage to sidewalks and roads by mules and horses, is obsolete.
32-1018	Amended (Renumbered 32-21-176)	Name and style changes, and superfluous language removed. Reference to 32-1019 is inserted at the end of the sentence, because that is where the exceptions are stated. The Commission would continue to designate interstate highways under this section, consistent with 32-2407 and the name-change guidelines.
32-1019	Amended (Renumbered 32-21-177)	Name and style changes
32-1020	Amended (Renumbered 32-21-178)	Style changes
32-1021	Amended (Renumbered 32-21-179)	Style and grammar changes. The Commission "designates" highways under the first sentence, not "defines" them, to make the language consistent with Section 32-2407.
32-1022	Amended (Renumbered 32-21-180)	Style changes
32-1110	No change	
32-1112 through 32-1116	No change	
32-1117 and 32-1118	Repealed	These sections, which pertain to regulation and use of sleighs, are obsolete.
32-1119	No chahge	
32-1120 and 32-1121	Repealed	These sections, which pertain to moving steam engines along highways, are obsolete.
32-1122	Repealed	This section, relating to the regulation of size and weight of vehicles on public highways, is proposed to be repealed because the parts of it are either superfluous or contained in other sections. The first sentence is superfluous as the same penalty is provided in Section 32-1124 (1), and the prohibitions are contained in new

Section	Change	Reason
		Sections 32-1123.1 through 32-1123.11. The prohibition against local authorities to alter weight and size limitations is now contained in new Section 32-1123.12, and the language of the last four sentences was moved to Section 32-1124 (2).
32-1123	Repealed	This section, relating to standards of maximum sizes and weights for trucks, etc., takes up nearly four pages in the Codes and its history indicates that it is amended periodically. Such an extremely long section should be split into several sections to facilitate easier amending and readability. New sections 32-1123.1 through 32-1123.11 following replace this section.
32-1123.1	Added	Style and grammar changes. Replaces the first paragraph of 32-1123.
32-1123.2	Added	Style changes only. Replaces Section 32-1123(1).
32-1123.3	Added	Replaces 32-1123 (2). Style changes only
32-1123.4	Added	Replaces 32-1123 (3). Style changes only
32-1123.5	Added	Replaces 32-1123 (4). Style changes only
32-1123.6	Added	Replaces 32-1123 (5), (a) and (b). Style changes only
32-1123.7	Added	Replaces 32-1123 (5) (c). Style changes only, except for name change in first line
32-1123.8	Added	Replaces 32-1123 (5) (d). No changes, except the topic heading was added
32-1123.9	Added	Replaces 32-1123 (5) (e). Name and reference changes

Section	Change	Reason
32-1123.10	Added	Replaces 32-1123 (5) (f). Name, style and reference changes
32-1123.11	Added	Replaces 32-1123 (5) (g). Name, style and reference changes
32-1123.12	Added	Replaces part of 32-1122. Style and reference changes
32-1124	Amended	This section was amended substantially. Subsection (1) replaces the matter deleted, with reference changes. Subsection (2) is substantially the same language contained in the last four sentences of 32-1122 with style changes. It is more logical to put that language after the violation section, since it amounts to an exception from a violation.
32-1125	Amended	The language in the first sentence was inserted, because the sentence previously did not say what the penalty was for. Style and reference changes
32-1126	Amended	Name, style, and reference changes, and superfluous language removed. "Act" referred to in the last paragraph really is this section.
32-1127	Repealed	This is another long section relating to permits for excess size and weight, which takes up over three pages of the Codes, and which should be split up. Sections 32-1127.1 through 32-1127.10 following replace it.
32-1127.1	Added	Replaces first and second paragraphs of 32-1127. Name, style, and reference changes. The last sentence of the second paragraph of 32-1127 is replaced by 32-1127.10.
32-1127.2	Added	Replaces 32-1127 (a). Name and style changes
32-1127.3	Added	Replaces 32-1127 (b). Name, style and reference changes
32-1127.4	Added	Replaces 32-1127 (c). Style and reference changes
32-1127.5	Added	Replaces 32-1127 (d). Name and style changes
32-1127.6	Added	Replaces 32-1127 (e). No change, except topic heading added

Section	Change	Reason
32-1127.7	Added	Replaces first paragraph of 32-1127 (f). Style changes
32-1127.8	Added	Replaces second paragraph of 32-1127 (f). Name, style, and reference changes, and topic heading added
32-1127.9	Added	Replaces third paragraph of 32-1127 (f). Name and style changes and topic heading added. The Commission would retain the quasi-judicial power to revoke, cancel, or suspend permits under this section, as per the name-change guidelines for this Department.
32-1127.10	Added	Replaces the last sentence of the second paragraph of 32-1127. Section 32-3205 changed the name of the "highway fund" to the "state highway account of the earmarked revenue fund," necessitating a similar change in this section.
32-1128	Amended	Style changes, and superfluous language removed. The only state road authority is the Department of Highways.
32-1129	Repealed	This same section, pertaining to restrictions on tire equipment, is repeated almost verbatim in Section 32-21-149, and is therefore redundant.
32-1130	Amended	Style and reference changes, and superfluous language removed. The reference in the first paragraph to "this act" applies to 32-1128.
32-1131	No change	
32-1401	Repealed	This section is identical to Section 93-9923, which provides for the establishment of private roads.
32-1501	No change	
32-1502	Amended	Style and reference changes. There is no such thing as an "article" of the Revised Codes (except in Title 87A, the Uniform Commercial Code).
32-1503 through 32-1518	No change	
32-1619	Repealed	This section, providing for disposition of highway moneys, is identical to Section 32-3205 and therefore is superfluous.
32-1627	Amended	Name and style changes
32-1628	Amended	Name and style changes. Subsection (5), which merely refers to 32-1625, is deleted because 32-1625 has been repealed.

Section	Change	Reason
32-1632	Amended	Name, style, and reference changes. A minor substantive change was the substitution of the Director of Highways for Commission in the first sentence, since the Department cannot appoint, and the Director is the Department head under 82A-701. Employees of the Department who are employed in the administration of the gross vehicle weight functions are referred to rather than the specific positions, because reference to positions implies that there are such positions thereby freezing those position names in the law.
32-1633	Amended	Name, style, and reference changes
32-1634	Amended	Name and style changes
32-1635	Amended	Name and style changes
32-1636	Amended	Name, style, and reference changes
32-1637	Amended	Name, style, and reference changes, and superfluous language removed
32-1638	Amended (Renumbered 32-1631.1)	The reference to sections 32-1632 through 32-1641 was inserted to clarify how this definition applies. The section number was changed to 32-1631. to move this definition section in front of the section to which it applies.
32-1639	Amended	Name, style, and reference changes. The authorized employees referred to are obviously employees appointed under 32-1632. References in subsections (3) and (4) are changed to the title and chapter number, since the sections listed include those chapters. There are no sections 53-118.1 through 53-118.4 referred to in subsection (5); sections 53-118.6 through 53-118.10 now replace them, but they would be renumbered 32-3315.1 through 32-3315.5 in this recodification, and therefore are included under subsection (3). Sections 32-1122 and 32-1123 referred to in subsection (1) would be repealed by the recodification.
32-1640	Amended	Name changes. "The" is changed to "such" to make it clear that the employees appointed under 32-1632 and referred to in subsequent sections are what are being referred to here, not just any employees of the Department.

Section	Change	Reason
32-1641	Amended	Style, grammar, and reference changes. "Notice to appear" was substituted for "summons" -- this is the terminology now used under 95-614.
32-2133	Amended	Name and style changes
32-2134	Amended	Name and style changes
32-2134.3	Amended	Name and style changes
32-2144	Amended	The language deleted in subsection (b) before the colon is superfluous, especially with the insertion of the reference to sections 32-2145, 32-2146, 32-2147, and 32-2149 in the same sentence. The insertion of the reference to those sections was made to make it clear that those are the sections that "hereinafter" authorize the setting of different speed limits. The language deleted in subsection (b) 3 is also superfluous, because 32-2145 as rewritten says the same thing. The reference to 32-2149 was added in the last sentence of (b) 3 because that section also allows the Commission to alter the speed limits. All other changes are style changes.
32-2145	Amended	This section was completely rewritten. An extensive legal analysis was done on this section and on sections 32-2144, 32-2146, 32-2147, and 32-2149. It was ultimately concluded that legally only the Commission (before reorganization) can set special speed limits, and the Highway Patrol Board has no authority to do so. The attorney for the Highway Patrol Board agrees with analysis. Therefore, this section and the following sections were amended to reflect that fact. (For the analysis itself contact the Executive Reorganization Office.) Subsection (3) was added to this section, and replaces the material deleted at the end of the first paragraph in subsection (b) 3 of 32-2144. All other changes are style changes.
32-2146	Amended	Style changes. The word "street" was deleted near the end of subsection (c) because that word is not used in the first part of subsection (a). "Highway" is defined in 32-2114. Subsection (d) was rewritten for clarity and style; the reference to 32-2144 was changed to 32-2145 because the material referred to in 32-2144 was moved to 32-2145 (see above comment under 32-2145)

Section	Change	Reason
32-2147	Amended	Style change, and superfluous language removed. See the comment for 32-2145 for the reason why the name "board" was changed to "commission."
32-2149	Amended	Name and style changes, and superfluous language removed. See comment for 32-2145 for the reason for the name changes.
32-2157	Amended	Name and style changes
32-2158	Amended	Name and style changes
32-2163	Amended	Rewritten extensively for clarity and style
32-2174	Amended	Name change only
32-2192	Amended	Name and style changes
32-2195	Amended	Name and style changes
32-21-102	Amended	Name and style changes
32-21-149	Amended	Name and style changes
32-2201	No change	
32-2202	Amended	Name change only
32-2203	Amended	Subsection (3) was deleted, because 82A-702(3) abolished the Toll Bridge Authority. Subsection (15) was deleted, because 82A-702(2) abolished this position. New subsections (12) and (13) were added to define "department" and "director." All other changes are name, reference, and style changes.
32-2301	Amended	Name and reference changes. In accordance with the name-change guidelines explained at the beginning of these comments, the Commission would designate, select, or establish highways under this section, and the Department would construct and maintain them.
32-2302	No change	
32-2401	Amended	Name changes only
32-2402	Amended (Renumbered 82A-706.1)	The provision that members shall be confirmed by the Senate was deleted as that provision will be included in the recodification of 82A-112 (the provision of the Reorganization

Section	Change	Reason
		Act which applies to all quasi-judicial boards). The second sentence was deleted as obsolete now. The material added in (1) (a) replaces 32-2403 (2); subsection (1) (b) replaces 32-2403 (4) (a); subsection (1) (c) replaces 32-2403 (4) (b); and subsection (1) (d) replaces 32-2403 (4) (c); subsection (2) replaces 32-2405 (3); and subsection (3) replaces 82A-706 (2). All of these provisions were brought together in one section in accordance with the rules followed by this recodification. The purpose is to put in one section the composition, qualifications, and quasi-judicial designation of the Commission. The section is also renumbered 82A-706.1, so that it will be transferred to the Executive Reorganization Act in the Codes. By doing this for all agencies, the Reorganization Act will provide a quick reference of all agencies created by law, and their composition.
32-2403	Repealed	This section sets up the qualifications and appointment of Commission members; this material is being included in the amendments to 32-2402 above. However, subsection (1), stating that each member shall be a U. S. and Montana citizen, is not being replaced, because 59-301 requires the same thing. In addition, subsection (3) (a), setting out the terms of Commission members, subsection (3) (b), providing for vacancies, and subsection (4) (d), providing for removal of Commission members, are also deleted and not being replaced, as 82A-112 has the same provisions as supersedes them.
32-2404	Amended	The first two sentences of subsection (2) were deleted, because 82A-112 now provides for the compensation and expenses of Commission members. The last sentence of subsection (2) is not covered by another law, but is also deleted as it is unneeded. (The Commission would have to meet 100 days each year in order for the sentence to apply, which is completely unrealistic.) This deletion is a substantive change, however. The new material added in subsection (2) replaces 32-2405 (2) to combine these provisions in one section.

Section	Change	Reason
32-2405	Repealed	This section relates to the Chairman, meetings, and quorum of the Commission. It was repealed as these provisions are covered or replaced by other law. 82A-112 provides for the election of the chairman of all quasi-judicial boards (the Commission is designated as a quasi-judicial board in the amendments to 32-2402). Meetings are provided for in the amendments to 32-2404 above, and the amendments to 32-2405 provide for a quorum of the Commission.
32-2406	Amended	These amendments are made to clearly separate the powers of the Department from those of the Commission. These name changes are made in accordance with the name-change guidelines for the Department, stated at the beginning of these comments.
32-2407	Amended	Amended primarily to give the Department authority to make the rules for construction, etc. in subsection (4). Since the Department constructs, maintains, and marks highways under the general name-change guidelines for this Department's recodification, it should also make the rules for same. All other changes are style changes.
32-2408	Amended	Primarily a name change in subsection (2). Style changes
32-2409	Amended	Subsection (1) was amended for better style, and superfluous language was removed. Subsections (2) and (3) were amended to give the Department the duty of maintaining and preserving the Commission's records, since the Commission does not have a staff to do this (staff is now provided by the Department under Reorganization). Subsection (5) was deleted because it is unnecessary to say that an agency shall do something as provided in another law, when the other law says it shall do that same thing also. All other changes were made for style and subdivision of the section.
32-2410	Amended	Name changes only
32-2411	Amended	Name change only
32-2412	Amended	Name changes only
32-2413	Amended	Name changes to separate the functions of the Commission from those of the Department. Style changes

Section	Change	Reason
32-2414	Amended	Name and style changes
32-2415	Amended	Name change
32-2416	No change	
32-2417	Repealed	This section, relating to the certification and payment of claims, is unneeded because Section 82-109.1 and established accounting procedures provide for the same thing.
32-2418	Repealed	This section, which provides that the Commission prosecute persons, is a misstatement of law--only county attorneys can prosecute.
32-2419	Amended	Name and style changes
32-2420	Amended	Name, style, and reference changes
32-2421	Amended	Name and style changes
32-2422	Amended	Material inserted makes the section sensical--without it, the section had no grammatical subject. Other changes are for style.
32-2423	Amended	Name and style changes
32-2424	Amended	Name, style, and reference changes
32-2425	Amended	Name, style, and reference changes
32-2426	Amended	Name, style, and reference changes
32-2427	Amended	Name changes
32-2501	Repealed	This section provides for the position of State Highway Administrator. That position was abolished by Section 82A-702(2).
32-2502	Repealed	This section provides for the employees of the Department. Section 82A-107 now provides the same. Subsection (2), which provides for assignment of Department employees to counties, is obsolete and never used.
32-2503	Repealed	This section gives the Department authority to establish a Division of Maintenance and Control within the Department. The Department has this authority under Section 82A-107.

Section	Change	Reason
32-2504	Added	This section sets forth the duties of the Board of Highway Appeals, a new board established by Executive Reorganization. The duties of that Board are now in 82A-704, but should be moved out of the Reorganization Act and into the basic laws of the Department. 82A-704 is amended accordingly in this recodification. There are slight substantive differences in this section from 82A-704, in order to clarify the purpose and function of the Board.
32-2601	Amended	Name changes. The name change from Board of Equalization to Department of Revenue complies with the name change that will be proposed in the recodification of that Department's laws. The reference to 84-1818 in the next to the last sentence is wrong, as that section has been repealed; 84-1855 now replaces it. All other changes are style changes.
32-2603	Amended	Name changes
32-2604	Amended	Name and reference changes
32-2605	Amended	Name and style changes, and superfluous language removed
32-2606	Amended	Name and style changes, and superfluous language removed
32-2607	Amended	Name and style changes, and superfluous language removed
32-2608	Amended	Name and style changes
32-2609	Amended	Name and style changes, and superfluous language removed
32-2610	Amended	Name and style changes
32-2611	Amended	Name and style changes, and superfluous language removed
32-2701 through 32-2716	Repealed	These sections (Chapter 27 of Title 32) provide fo the Montana Toll Bridge Authority and the means of building and financing toll bridges. There has never been a toll bridge built in Montana, and there is no prospect that there ever will be. Consequently, these laws are unneeded, and should be repealed. The Department concurs in this recommendation.
32-2801	Amended	Name and style changes

Section	Change	Reason
32-2802	No change	
32-2803	Amended	Style and reference changes. Subsection (3) (a) was deleted because there are no "sections 5-308 and 5-309 of this chapter." (Chapter means Chapter 197, Laws of Montana, 1965, in this case.)
32-2804	Amended	Name and style changes
32-2805 through 32-2813	No change	
32-2814	Amended	Name and style changes
32-2815	Amended	Name and style changes
32-2901	Amended	Name change
32-2902 through 32-2907	No change	
32-3001 through 32-3007	No change	
32-3101 through 32-3131	No change	
32-3201	Amended	Style and reference changes, and superfluous language deleted
32-3202	No change	
32-3203	No change	
32-3204	Amended	Name and style changes
32-3205	Amended	Name and style changes
32-3206	No change	
32-3301	No change	
32-3302	No change	
32-3302.1	Amended	Name and style changes, and superfluous language removed

Section	Change	Reason
32-3303	Amended	The reference to 32-1123 was changed to Section 32-1123.1 through 32-1123.11, because 32-1123 would be repealed in this recodification and replaced by new sections 32-1123.1 through 32-1123.1
32-3304	No change	
32-3304.1	No change	
32-3305 through 32-3307	No change	
32-3308	Amended	Name and style changes
32-3309	Amended	Name, style, and reference changes. The Highway Patrol Chief is substituted in the last sentence. The position of supervisor no longer exists.
32-3310	Amended	Name, style, and reference changes and superfluous language removed. The reference to 53-112 in (1) (b) was changed to 53-122, as the reference to 53-112 is in error. Section 32-1123, referred to in the last line, would be repealed and replaced by Sections 32-1123.1 through 32-1123.11 in this recodification. Subsection (2) is deleted because Section 32-3311 relating to the markings of weight on tractors was repealed, thus subsection (2) is obsolete.
32-3312	No change	
32-3313	Amended	Name and style changes
32-3314	Amended	Name change
32-3315	Amended	Name and style changes
32-3316	No change	
32-3317	Amended	Name, reference, and style changes. Section 53-620, referred to in (1) (b), would be renumbered 32-3205.1 in this recodification.
32-3401	Amended	Name and style changes
32-3402	Amended	Name changes
32-3403	Amended	Name changes
32-3404 through 32-3406	No change	
32-3501 through 32-3509	Repealed	These sections provide for the issuance of revenue bonds to build toll bridges. See comment under Sections 32-2701 through 32-2716.

Section	Change	Reason
32-3601 through 32-3605	No change	
32-3701 through 32-3706	No change	
32-3707	Amended (Renumbered 53-639.1)	Name and style changes. This section was renumbered 53-639.1 because it fits more logically in that part of the Codes. The Department also recommends that this section be moved to Title 53, Chapter 6.
32-3801 through 32-3804	No change	
32-3805	Amended	Style and reference changes. The reference to subsection (2) of 32-3801 in the second sentence is in error--it should be to subsection (1) (b).
32-3806	No change	
32-3901	No change	
32-3902	Amended	Name and style changes
32-3903	No change	
32-3904	Amended	Name, reference, and style changes
32-3905	Amended	Name and style changes, and superfluous language removed
32-3906	Amended	Name, reference, and style changes
32-3907	Amended	Name, reference, and style changes
32-3908	Amended	Name, reference, and style changes, and superfluous language removed
32-3909	Amended	Name, reference,and style changes
32-3910	Amended	Name, reference, and style changes
32-3911	Amended	Name, reference, and style changes
32-3912	Amended	Name change

Section	Change	Reason
32-3913	Amended	Name and style changes
32-3914	Amended	Name and style changes, and superfluous language removed
32-3915	Amended	Name, reference, and style changes, and superfluous language removed
32-3916	Amended	Name and style changes
32-3917	No change	This section gives the Commission authority to abandon highways. In accordance with the general name-change guidelines for the recodification of the laws of this department outlined at the beginning of these comments, this authority was left with the Commission.
32-3918	No change	
32-3919	Repealed	This section provides for the acquisition of property for rights of way for toll bridges. As explained in the comment to Chapter 27 of these laws, the toll bridge statutes would be repealed in this recodification. See that comment for an explanation.
32-3920	No change	
32-3921	Repealed	This section authorizes the payment of moving expenses to eligible persons in accordance with subsequent sections of this chapter. Such a section is unneeded and superfluous, because the following sections (32-3923 through 32-3931) provide for the same thing.
32-3922	Repealed	This provision allows the Commission to adopt rules to implement the payment of expenses. This same language is in Section 32-3922, and is therefore redundant.
32-3923	Amended	Reference and style changes. Sections 32-3923 through 32-3931 constitute the "act" referred to in the first line.
32-3924	Amended	Name and style changes
32-3925	Amended	Name, style, and reference changes, and superfluous language removed
32-3926	Amended	Name and style changes, and superfluous language removed

Section	Change	Reason
32-3927	Amended	Name and style changes
32-3928	Amended	Name, style, and reference changes. Sections 32-3925 through 32-3927 authorize payments, not the whole "act."
32-3929	Amended	Name, style, and reference changes. Language was added in the first sentence to make it clear that these rules may include rules to implement the payment of expenses (replaces 32-3922 above).
32-3930	Amended	Style and reference changes. There is no such thing as an "article" in the Revised Codes (except in Title 87A, the Uniform Commercial Code).
32-3931	Amended	Reference and style changes. July 1, 1969 was the effective date of the act.
32-4001 through 32-4015	No change	
32-4016	Amended	Name and style changes
32-4017	No change	
32-4018	No change	
32-4101	No change	This section provides that all contracts for work on state and federal-aid highways shall be let by the Commission. This authority remains in the Commission in this recodification, in accordance with the general name-change guidelines for this Department outlined at the beginning of these comments.
32-4102	Amended	Name change (Secretary of Commerce to Secretary of Transportation) and style change. Letting contracts remains with the Commission as in previous section.
32-4103	No change	
32-4201 through 32-4203	No change	

Section	Change	Reason
32-4204	Amended	Name and reference changes. The reference to R.C.M. 1947 is specifically inserted by law--previously it was inserted by the codifier of the Revised Codes. The citation to R.C.M. 1947 is usually superfluous but is needed here because there are also Sections 6-501 and 6-401 to 6-404 in Chapter 197, Laws of 1965, the act enacting the Highway Code as it is today.
32-4205 through 32-4207	No change	
32-4301	Amended	Name change--there is no Bureau of Public Roads now.
32-4302	Amended	Name and style changes, and superfluous language removed. The Commission would continue to designate highways in accordance with the name-change guidelines for this recodification.
32-4303 through 32-4308	No change	
32-4308.1	Amended	Name and style changes
32-4309 through 32-4311	No change	
32-4401	No change	
32-4402	Repealed	This section makes it a crime to maliciously damage highways, bridges, private ways, guide-posts, or any shade or ornamental tree on any highway. The Criminal Code provides for the malicious destruction of property, so it says the same thing. Therefore, this section is redundant, and is proposed to be repealed upon recommendation of the Department.
32-4403 through 32-4410	No change	
32-4513	No change	
32-4514	No change	

Section	Change	Reason
32-4515	Amended	Name and style changes
32-4516	Amended	Name and style changes, and superfluous language removed. The proper name of the highway account was inserted.
32-4517	No change	
32-4518	Amended	Name and style changes. July 1, 1967 is the effective date of the act.
32-4519	Amended	Name and style changes. The Department has expertise to adopt these kinds of rules.
32-4520	Amended	Name changes
32-4521	Amended	Name changes
32-4522	Amended	Name and style changes
32-4523	No change	
32-4715	No change	The Commission would continue to adopt rules relating to outdoor advertising under this section, in accordance with the name-change guidelines.
32-4716	No change	
32-4717	Amended	Name and style changes
32-4718	Amended	Style changes. The Commission would continue to adopt outdoor advertising rules under this section.
32-4719	Amended	Style changes
32-4720	Amended	Name and style changes, and superfluous language removed. June 23, 1971 is the effective date of the act.
32-4721	Amended	Name and reference changes
32-4722	Amended	Name and reference changes, and superfluous language removed. Most of the language deleted is duplicated in the new Administrative Procedures Act (Title 82, Chapter 42). There are some inconsequential differences in the language of this section and that of the Administrative Procedures Act, and therefore there are a few minor substantive changes made by deleting this language.

Section	Change	Reason
		(The Reorganization Office can be contacted for a precise comparison of this section with the Administrative Procedures Act.) June 24, 1971, is the effective date of this section.
32-4723	Amended	Name, style, and reference changes, and superfluous language removed
32-4724	Amended	Name change, and superfluous language removed
32-4725 through 32-4728	No change	
32-4801 through 32-4808	No change	
53-118.6	Amended (Renumbered 32-3315.1)	Rewritten to make it clear that a demonstration permit must be secured--this fact was not clear before, although obviously a permit was intended to be required. The reference to Title 32, Chapter 33, in the last sentence makes no sense--there is no demonstration permit required under Chapter 33, nor is there required a dealer's registration permit or "other current Montana registration" in that chapter. Therefore, the reference was deleted. This section and the next four sections (53-118.7 through 53-118.10) were renumbered to fit in Chapter 33 of Title 32 in the Codes. They fit more logically there because the Department of Highways administers these sections. Moving these sections into Title 32 is also recommended by the Department. Other changes to this section are style changes.
53-118.7	Amended (Renumbered 32-3315.2)	Name and style changes, and renumbered to move to Title 32, Chapter 33. (See comments under 53-118.6.)
53-118.8	Amended (Renumbered 32-3315.3)	Style changes, and subdivided. Renumbered. (See comments under 53-118.6.)
53-118.9	Amended (Renumbered 32-3315.4)	Style changes. The "section" referred to in the first sentence is really the whole act, but the prohibition provisions only include 32-3315.1 through 32-3315.3 (53-118.6 through 53-118.8 renumbered above). This section was also renumbered. (See comments under 53-118.6.)

Section	Change	Reason
53-118.10	Amended (Renumbered 32-3315.5)	There are no fees collected "under this section." The reference is obviously to 53-118.7, renumbered 32-3315.5 in this recodification. This section was renumbered. (See comments under 53-118.6.) The other change deletes superfluous language.
53-514	Amended	Name and style changes, and superfluous language removed
53-515	Amended	Name and style changes, and superfluous language removed
53-516	Amended	Name and style changes, and superfluous language removed
53-517	Amended	Style changes
53-518	Amended	Name and style changes, and superfluous language removed
53-519	Amended	Name and style changes
53-520	Amended	Name and style changes. The "act" referred to in the sentence now constitutes all of Chapter 5, Title 53 (this chapter).
53-521	Amended	Style changes
53-620	Amended (Renumbered 32-3205.1)	Name and style changes, and superfluous language removed. This section makes no sense by itself, because most of the "act" referred to in the last subsection has been repealed and replaced by Title 32, Chapters 32 and 33. However, the Department of Highways applies this section to Chapters 32 and 33 of Title 32, which is probably the correct application if the section has any meaning or purpose at all. Therefore, this section was changed accordingly, although this may be a substantive change. It was also renumbered 32-3205.1 to place it in the Codes where it fits more logically.
53-624	Amended (Renumbered 32-3318)	Name and style changes, and superfluous language removed. This section, like the previous section, is also out of place here. However, the Department applies it to Chapters 32 and 33 of Title 32, which is now the "act" referred to in this section. The section was rewritten and renumbered accordingly, although this may be a substantive change.

Section	Change	Reason
53-626	Amended (Renumbered 32-3319)	Name and style changes, and superfluous language removed. (See comments under 53-620 and 53-624 above.)
53-627	Amended (Renumbered 32-3320)	Reference change, and superfluous language removed. (See comments under 53-620 and 53-624 above.)
53-632	Amended (Renumbered 32-3407)	The Department applies this section to Title 32, Chapter 34. It was, therefore, renumbered accordingly.
53-633	Amended (Renumbered 32-3408)	Name and style changes. Moved to Title 33, Chapter 34 for the same reasons given under 53-632.
53-638.1	Amended (Renumbered 53-639.2)	Renumbered to fit in a more logical place in the Codes. The reference in the last line was changed to reflect how the Department actually administers this section.
53-640	Amended	Style changes, and changes to make it clear that this section applies to special mobile equipment defined in 53-642.
53-641	No change	
53-642	Amended	The reference was changed, because 32-1127 would be repealed and replaced with Sections 32-1127.1 through 32-1127.10 in this recodification.
53-701	No change	
53-702	Amended	Name and style changes, and superfluous language removed. The function of resolving disputes under the motor vehicle reciprocity laws has been transferred to the Board of Highway Appeals by reorganization, necessitating the name change in subsection (5) (b). All other functions of the former Motor Vehicle Reciprocity Board were transferred to the Department of Highways, resulting in the name changes made in subsection (10).
53-703	Repealed	This section created the Motor Vehicle Reciprocity Board. That Board has been abolished under reorganization, and therefore this section is obsolete.
53-704	Amended	Name and reference changes, and superfluous language removed

Section	Change	Reason
53-705	Amended	Name and style changes, and superfluous language removed
53-706	No change	
53-707	Amended	Name and style changes, and superfluous language removed
53-708	Amended	Name and style changes, and superfluous language removed
53-709	No change	
53-710	No change	
53-711	No change	
53-712	Amended	Name and style changes, and superfluous language removed. There is no section 53-615 referred to in subsection (2) (b)--it was repealed in 1965.
53-713	Amended	Name and style changes and superfluous language removed
53-714	No change	
53-715	No change	
53-716	Amended	Name and style changes and superfluous language removed. The section was also rewritten in parts for clarity
53-717	Amended	Name and style changes
53-718	Amended	Name and style changes
53-719	Amended	Name and style changes
53-720	No change	
53-721	Amended	Name and style changes, and superfluous language removed
53-722	Amended	Name change. There is no secretary of the Reciprocity Board now, because there is no Board.
53-723	No change	
53-724	Amended	Superfluous and obsolete language removed

Section	Change	Reason
82A-701	Amended	Section 82A-707 would be repealed under this recodification, as it will be obsolete if the recodification is enacted. However, the reference in 82A-707 to 82A-106 must be retained since 82A-106 says how directors are appointed and serve.
82A-701.1	Added	A section of this type will be added to the laws of each department in the Executive Reorganization Act (Title 82A). The purpose of this section is to catalog in one section the primary laws the Department administers. This approach was used in the recodification of the health laws in 1967.
82A-702	Repealed	This section abolishes various agencies, and transfers their functions to the Department of Highways. Since the transfer has now taken place, this section is obsolete.
82A-703	Repealed	This section transfers the functions of the Highway Commission to the Department, a transfer which has also already taken place, making the section obsolete now.
82A-704	Amended	Superfluous language removed. Subsection (4) was deleted; new section 32-2504 replaces the material in that subsection relating to the hearing of grievances, and section 53-702 (5) (b) is rewritten to reflect the functions of the Board of Highway Appeals under the Motor Vehicle Reciprocity Laws (Title 53, Chapter 7).
82A-705	Repealed	This section transfers the quasi-judicial functions of the former Motor Vehicle Reciprocity Board to the Board of Highway Appeals. Since the transfer has now taken place, and since the Motor Vehicle Reciprocity Laws would be rewritten in this recodification to reflect the transfer (see 53-702 (5) (b)), this section is now obsolete.
82A-706	Repealed	This section merely states that the Highway Commission is continued under Executive Reorganization, and designates the Commission as a quasi-judicial board. Section 82A-706.1 (32-2402 renumbered) would replace this section under this recodification, making this section obsolete.

Section	Change	Reason
82A-707	Repealed	This section creates the position of Director of Highways, and sets forth his manner of appointment. The changes made to 82A-701 above accomplish the same thing. This section also provides that the functions of the director are "subject to the concurrence of the highway commission." As explained at the beginning of these comments, this language is legally vague and somewhat unworkable, and therefore this recodification has attempted to clearly set forth and separate the functions of the Commission from those of the Department (headed by the Director). Once that has been done, there is no need for this section.
82A-708	Amended	This section abolished three minor advisory councils--it is now obsolete.
89-3310	Amended	Name and style changes
93-9913	Amended	Name change
94-3344	Amended	Name changes

SUGGESTED AMENDMENTS TO HOUSE BILL 634

(1) amend the key line, pagel, line 4, of the introduced bill by adding the following material: "32-2412",

(2) further amend the title, page 1, line 6, following the word "ACT" by striking the remainder of line 6 and all of lines 7 and 8,

(3) further amend the title, page 1, line 9, following the word "DEPARTMENT" by inserting the words "OF HIGHWAYS",

(4) further amend the title, page 1, line 9, by striking the word "SUCH" and inserting in lieu thereof the words: "OPEN RANGE",

(5) further amend the title, page 1, line 12, following the figures "32-2426" by striking the word "AND" and inserting in lieu thereof the punctuation ",";

(6) further amend the title, page 1, line 12, following the figures and punctuation "32-2427" by inserting the word and figures: "AND 32-2412";

(7) further amend sections 5,6, and 7 pages 5 and 6 by striking the entire sections and renumbering the remaining sections;

(8) further amend section 8, page 6, line 9, following the word "department" by striking the words "is authorized to" and inserting in lieu thereof the word: "shall";

(9) further amend section 8, page 6, line 12, following the word "Gates" by inserting the following words and punctuation: ", stock underpasses, water facilities,";

(10) further amend following section 8, page 6, following line 15 by adding the following new section: "Section 6. Section 32-2412, R.C.M. 1947, is amended to read as follows:

"32-2412. Seeding along highways. (1) After a federal-aid or state highway is constructed, the commission shall seed borrow pits, slopes and shoulders to an adaptable perennial grass or combination of perennial grasses and legumes whenever establishment of perennial grass covers seem suitable. The seed shall be certified.

(2) The commission shall seek joint recommendations and specifications as to time and method of seeding, fertilizing practices and grass species from the Montana extension service, the experiment station, and the soil conservation service.

(3) After a right of way in open range has been fenced pursuant to sections 32-2426 or 32-2427, the commission may seed the land within the fence to a grass which may be cropped for hay, and may lease such lands or sell the right to take such hay to qualified persons."

I am Anne Kittelson, Route 1A, Columbia Falls, Montana

I was born in Montana and have resided in the state of Montana all my life. In April 1948 I moved with my husband Eddie Kittelson and our two children to Flathead County.

Very soon after locating in Flathead valley we became aware of a most hazardous condition facing all motorists, --- domestic animals grazing along beside, crossing, and in some instances napping on the state highways.

We often remarked "Something should be done about this" --

However, it was not until June 27, 1972 I realized I personally had to try to get something done about this. --
On June 27, 1972 my husband and I were involved in a domestic livestock related collision. My husband lost his life in this accident and nothing short of a miracle saved mine.

I feel we all have a certain responsibility to the welfare of our State of Montana and to the people who live here.

I am here today to urge members of this committee and other legislators to exercise their powers, giving serious thought and consideration to their responsibility to the majority of the people of the State of Montana -- the motorists -- through supporting legislation necessary to up-date existing conditions. existing laws to meet

In closing I leave this thought with you --

We can figure the cost of fencing along our highways in terms of dollars and cents --
We can figure the value of grazing grass along our highways in terms of dollars and cents --
But can we figure the loss of a loved one in terms of dollars and cents?
The Eddie Kittelson family has not found a way -- Could you?

Mr. Chairman and Committee Members:

I am Melvin Harold Hanson Jr. of 405 2nd St. West, Kalispell, Montana. I am here to state why I feel our highways should be fenced. I fully support bill #654.

I have passed among you copies of a newspaper clipping dated September 10, 1973, along with 9 photos. I feel these pictures and clippings can state our tragic loss easier and less emotionally than myself.

Death is always tragic but when it happens so needlessly as this, it's even worse.

This accident wouldn't have had to happen if the cattle hadn't been on the highway that night.

We have to protect our people as well as our properties by keeping livestock off Montana Highways. The only effective way to do this is by fencing hazardous areas.

Montana is a great state - the best - and we can make her even greater if we protect one of her largest products as well as nationwide tourism, that means so much to Montana's economy.

Yes, I am the son of Melvin H. Hanson Sr. and this is my sister, Carlene Moore. We having experienced this type of loss, feel <u>something has got to be done</u>. This is why we come before you and ask your support on this bill.

Sincerely

Melvin H Hanson Jr

Melvin H. Hanson Jr.

Mr. Chairman and Committee Members:

I, Dorritt Carlene Hanson Moore of Kalispell, Montana in the beautiful Flathead Valley has come before you to give my reasons as why I feel that bill #634 on Open Range should be passed.

1. Livestock on open highways cause wrecks resulting in bodily injury and all to frequently death.

2. Livestock ranging along highways are costly when lost, to the rancher not only in the critter its self but through the process of reproduction.

3. Livestock is also costly to the general public when being purchased over the meat counter and become even more costly through the insurance premium rates.

4. The business men are also affected by livestock on our highways, as in such cases, as a logging truck being put out of commission also the driver may be injuried.

State figures show property damage and life loss as average economic loss of $160,000 per individual based on lifetime earnings and other economic factors. But how can a price stated in dollars and cents be placed on a humans life. I only pray that you nor anyone else has to endure such a loss as ours.

Sincerely,

Dorritt Carlene Hanson Moore

Dorritt Carlene Hanson Moore

January 24, 1974

Highway and Transportation Committee;

My name is Patricia Knowles Collier, residence Manion, Montana. In my own interest, as spokesman for several other families and in the interest of the human race I ask that you reccommend House Bill # 634 for definate passage.

The influx of people into Montana in the last few years has been tremendous, they are on the highways.

The fair in Spokane, Washington, is going to fill Montana highways, gas shortage or not.

Cars are larger, faster, more plentiful,

In the northest area, highways are still narrow, mountainous, full of sharp turns. blind corners.

We encourage tourism, we want the people to come through Montana to and from the fair, and like it enough to come back next year but many have already written Montana off because of road hazards. We have petitions that were circulated two years ago signed by residents and tourists alike to to support our position on this. We also have petitions which were circulated in Dec & Jan. this year supporting this bill. The ranchers from Sanders, Lake and a few from Mineral Counties need the Flathead County summer range, Burlington Northern leases. We would in no way take these away from them, BUT the general public needs safer highways just as badly.

Royal LOGGING Company

892-5128
COLUMBIA FALLS, MONTANA
59912

January 14, 1974

Mrs. Ora Halvorson
244 Woodland Drive
Kalispell, Montana 59901

Dear Mrs. Halvorson:

We truly appreciate your taking an active interest in the Open Range problem that has long plagued the motorists and truckers in Montana. Livestock being allowed to roam at will on and around our highways, expecially at night, is an extremely hazardous situation.

Our company has experienced some accidents that can be directly related to this situation, together with more near misses than we like to think about. I was personally involved in one near miss one dark night when I came upon two (2) dark horses, black in color and facing in such a way that there wasn't even a reflection from their eyes. I was extremely lucky to avoid an accident by evasive action, since there was absolutely no time to stop. The dark color of the horses blended in perfectly with the dark asphalt on the highway.

We strongly support you in your efforts to encourage our Legislature to provide some relief to the motoring public and hope that your efforts are successful.

If we can provide any further assistance to you in this endeavor, please feel free to call on us.

Very sincerely,

ROYAL LOGGING COMPANY

H. A. Larson, President

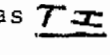
HAL;j

Patricia Knowles Collier
P.O. Box 35
Marion, Montana 59925
February 3, 1974

Montana House of Representatives
Chairman of Highway Committee
Helena, Montana 59601

Dear Mr. Baeth;

Upon returning from Helena and my appearance before the Highway Committee on January 24, 1974, I realized you might question my knowledge as to branding, the peoples ability to read brands etc.

So to substantiate my claims; I was employed by the Montana Livestock Commission in the Brand Office from Nov. 1965 to Feb. 1972. My original duties were office only but as time went by I went into the field inspecting cattle and attempting to straighten out bills of sale. More often the case than not, these bills of sale were written by someone who owned the animal but not the brand and they simply could not understand why it was wrong, they had been doing things this way for years. A good example of brand reading happened just recently. I received a call asking me who owned the brand JE, I knew of none in this area but double checked my brand book. No position of brand was given, by the way, it seldom is. I then went to look at the cow, the brand was  , very good job of branding and easy to read.

Since the sale ring was built in 1965, the people in this area are becoming better informed, many have gotten brands of their own but the situation here is a far cry from eastern Montana and will be for some time to come.

In my opinion HB# 850 & 851 would prove impossible in our area at the present time and therefor ask that you give a DO PASS judgement on HB# 634.

I believe HB# 634 is the only way and solution (presented to date) that will effectively control cattle on our highways ALL over our state.

Sincerely,

Patricia Knowles Collier
(Mrs. Richard C. Collier)

cc

NAME Conrad B. Fredricks BILL No. HB 634

ADDRESS Big Timber DATE 1/24/74

WHOM DO YOU REPRESENT? Meagher, Sweet Grass and Wheatland Counties Preservation association

SUPPORT?_____ OPPOSE? X AMEND?_____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Please see attached analysis.

NAME Burt Hurwitz BILL NO.

ADDRESS Meagher County DATE 1/24/74

Meagher Co. Pres. Assoc

WHOM DO YOU REPRESENT? _____

SUPPORT?_____ OPPOSE?_____ AMEND?_____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

851 Support

850 Amend

634 Kill

NAME M.H. Mike Solberg BILL NO. 634

ADDRESS RT #3 Kalispell 59901 DATE 1/24/79

WHOM DO YOU REPRESENT? See below

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Director of Royal Logging Co Columbia Falls

Vice Pres & Director of Montana Motor Transport Helena

Member of Council of Safty Supervisors Helena

NAME Everett Snortland BILL NO. _____

ADDRESS 201 East 6th Ave DATE 1/24/74

Helena

WHOM DO YOU REPRESENT? Montana Farm Bureau

SUPPORT? _____ OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Oppose HB634

Support HB850 785 with minor amendments

DATE _____

COMMITTEE ON Agriculture, Livestock & Irrigation BILL NO. 850, 634, SR 62

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One: Support	Oppose
Rep Glenn Jacobsen		850	✓	
" "		634	✓	
Rep Ora J. Halvorson	Dist 16	850, 634	✓	
Robert L. Champion	Mont Dept of Hwys	634		
Jim Beck	" " "	634		
Everett Knotttend	Montana Farm Bureau	850, 634	✓	
Rep Wm Bath	House	634	✓	
"	"	850	✓	
Mons Teigen	Mont Stockgrowers	850, 634	✓	

(Please leave prepared statement with Secretary)

Lien made a substitute motion House Bill 494 as amended do not pass. Representative Selstad seconded the motion The substitute motion was carried by a vote of 8 for the motion and 6 against the motion.

House Bill 850: Representative Lien explained the amendments recommended by the subcommittee. The subcommittee recommended that House Bill 850 do pass as amended. Representative Walborn made a motion that amendments to House Bill 850 be adopted. This motion was seconded by Representative Staigmiller. The motion passed unanimously. Representative Glennen made a motion that House Bill 850 do pass as amended. Representative Lien seconded this motion and it passed with Representative Selstad voting against the bill.

House Bill 634: Representative Lien explained the amendments to the committee on behalf of the Subcommittee. Representative Baeth moved that the amendments be adopted. Representative Campbell seconded the motion and it passed unanimously. Representative Watt made a motion that House Bill 634 as amended do pass. Representative Baeth seconded the motion and it pass with Representatives Walborn, Selstad, and Staigmiller voting against the bill.

It was then suggested that House Bill 851 be left in committee to die along with House Bill 650, 1044,873 and 837.

There being no further business the meeting was adjourned.

Representative Walter Laas,
Chairman

jj

SENATE COMMITTEE

ON

AGRICULTURE, LIVESTOCK AND IRRIGATION

Minutes

March 1, 1974

The Agriculture, Livestock and Irrigation Committee meeting was called to order by Chairman Graham on the above date at 8:00 a.m. in Room 415 of the state Capitol Building.

ROLL CALL: All members were present with the exception of Senator Boylan.

CONSIDERATION OF HOUSE BILL 634:

Representative Ora Halvorson sponsor of the bill said this bill dinfes the responsibility of the highway department, the livestock owners and the highway users. She stated that many casualities and fatalities occur due to open ranges. This bill would inssit on the fencing of high hazardous areas. She also had proposed amendments to this bill. She said the bill had been amended in the house and had made it weaker.

Representative William Baeth testified in support of House Bill 634. He said in the area where he lives it is a very hazardous open range. Included with the minutes is a copy of a letter he had received also in support of the bill.

Representative Glen Jacobsen, District 4 also support the bill. The only question he had was he wondered if secondary highways were included in the bill, and if so it would be awfully expensive to fence.

Mr. Paul Smith, representing the Montana Stockgrowers felt the legislature should take action of this bill as it is now amended.

Mr. Melvin Hanson, Jr., from Kalispell testified next in support of House Bill 634. A copy of his statement is attached.

Mrs. Ann Kettleson from Columbia Falls was also in support of 634. Her husband had lost his life in a cow - car collision and she had been injured.

Mrs. Nancy Solberg from Kalispell testified next. She said she also had been in an accident due to cattle on the highway sometime ago and now realized something should be done.

Mr. Jim Beck, from the department of highways testified next. He stated he appeared neither in support or against the bill. He said there were over 11, 600 miles of primary and secondary highway in Montana. Twenty-five percent of these are unfenced. It costs approximately $9,000 per mile to fence both sides of the highway. He said the main problem areas are on the main highways. He also had proposed amendments. On page 2, line 21 and on page 3, lines 6, 19 and 23 omit the word "state" and insert the word "primary". On page 5, line 22 after the words "enforcemnt of" insert "federal aid". He said the way the bill was originally written it would have made the highway department or the State of Montana liable.

Mrs. Halvorson said the way the law is enforced now that the person who has the accident is liable for the livestock and also for the vehicle.

Mons Teigen, Montana Stockgrowers Association, stated that the Montana Supreme Court had upheld a decision where the livestock owner is liable for the livestock, and the driver is liable for the vehicle.

CONSIDERATION OF HOUSE BILL 850:

Representative Glen Jacobsen chief sponsor of the bill said this bill subjects the owner of livestock to a civil penalty after two warnings if his livestock is on the highway. He also had proposed amendments to the bill which are included with the minutes.

Representaitve Halvorson supported the bill. Representative Baeth supported the bill also.

Mr. Paul Smith, Montana Stockgrowers, also supported the bill. If the law is violated it does provide a liability act.

Mr. Everett Snortland, Montana Farm Bureau, stated they also supported House Bill 850 and the proposed amendment.

CONSIDERATION OF HOUSE BILL 755:

Senator McOmber, chairman of the subcommittee said they had two alternative to put before the committee. Alternative A is patterned after executive reorganization. Alternative B creates a saline-alkali planning council for administrative purposes

Senator McGowan felt the proposals were getting out of hand. He felt all that was need was one man who would coordinate efforts betweeen the other agencies and then report back either to the Governor or to the Legislature. He felt the money should be catalogued and not be given to one agency to dole out.

March 1, 1974

Senator Graham and Committee Members:

I am Melvin H. Hanson, Jr. of Lot 28, Snyder's Trailer Court, Kalispell, Montana.

I ask you to pass House Bill #634 on fencing part of the Open Range.

This bill I feel is extremely important to you and everyone else in this room, as citizens of our state, when it comes to safety.

Last September 9th, tragedy struck my family's lives with the death of my father, Melvin Harold Hanson, Sr.

My father was killed as my mother was driving home. It was after dark and she came upon a car. She dimmed her lights and before she could bring her lights back onto bright, her headlights caught a cow in the road directly ahead of her with other cattle along the road. Mom braked and swerved to miss the cow, not seeing the oncoming grain truck and collided head-on. As a result, Dad was killed outright and Mom was seriously injured.

The trucker was also injured but, "Thanks to the good Lord", not seriously. So you see if cattle hadn't been on the highway that night, my father would still be alive and Mom would be the way she used to be.

I have brought to you copies of the newspaper clipping along with snapshots of the car and truck which can express things easier than I.

My father served the people of Montana for several years in different ways such as being game warden, fire fighter, newspaper circulation manager for the Daily Missoulian and in the last 10 years working for the State Forestry - Glacier View District. Dad loved Montana the same as I, and I pray that this bill is passed so others need not lose their lives because of livestock. Highways are for <u>cars</u> not livestock.

May your lives be safe as you travel our highways.

Sincerely,

Melvin H. Hanson, Jr.

SENATE COMMITTEE

ON

AGRICULTURE, LIVESTOCK AND IRRIGATION

Minutes

March 4, 1974

The Agriculture, Livestock and Irrigation Committee meeting was called to order by Chairman Graham on the above date at 8:00 a.m. in Room 415 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator McOmber and Senator Harrison with Senators McDonald and Siderius excused.

CONSIDERATION OF HOUSE BILL 634:

Mr. Jim Beck from the Highway Department was present to answer questions from the committee. He said the main problem the highway department has is justifying the need and the money to the federal highway administration. He definitely felt his proposed amendments should be in the bill. See committee report. He said he had discussed this with the director who also is concerned about this problem, but that they would do all the fencing they could and get all the federal aid they could. Discussion follwed by the committee.

Senator Aber moved that we adopt Mr. Becks proposed amendments, see committee report. Seconded by Senator Goodheart. Vote was unanimous.

On page 3, line 9, subsection 4, following the word and punctuation "sheep," strike the words and punctuation "and horses, except wild horses." and insert the words and punctuation "swine, horses, mules, and goats." Senator Deschamps moved this amendment. Seconded by Senator Goodheart. Unanimous.

Senator Darrow moved that Representative Halvorson's proposed amendments, a copy is attached, be rejected. Seconded by Senator Goodheart. Unanimous.

Senator Darrow moved that House Bill 634 AS AMENDED BE CONCURRED IN. Seconded by Senator Goodheart. Motion Carried. Roll Call Vote. Senator Boylan voting NO.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 850:

Senator Deschamps said this bill would probably be in conflict with the open range law of the state of Montana. Some felt the only way this bill could be passed was to amend it to say the highway department would put in cattle guards at all approach roads on all primary and secondary roads.

Senator McCallum moved that House Bill 850 BE NOT CONCURRED IN. Seconded by Senator Boylan. Motion carried. Roll call vote. Senators Goodhart and Graham voting NO.

Carroll Graham

SENATOR CARROLL GRAHAM

SENATE COMMITTEE on Agriculture, Livestock & Irrigation

Date March 4, 1974 HOUSE Bill No. 634 Time

NAME	YES	NO
SEN. McOMBER - Vice Chairman		
SEN. ABER	X	
SEN. BOYLAN		X
SEN. DARROW	X	
SEN. DESCHAMPS	X	
SEN. GOODHEART	X	
SEN. HARRISON		
SEN. McCALLUM	X	
SEN. McDONALD		
SEN. SIDERIUS	X	proxy
SEN. GRAHAM - Chairman	x	
	7	1

Sally Watson
Secretary

Senator Carroll Graham
Chairman

Motion: Senator Darrow moved that House Bill 634 AS AMENDED BE CONCURRED IN. Seconded by Senator Goodheart.

(include enough information on motion--put with yellow copy of committee report.)

REPRESENTATIVE HALVORSON'S PROPOSED AMENDMENT HB 634

Amend on page 6, line 20, following Section 6, by adding a new section 7 as follows:

Section 7: Liability for striking animal limited. A motorist exercising due care while driving through open range country is not liable to a livestock owner for damages resulting from a collision with an animal belonging to the livestock owner, if the animal is on the right of way.

Amend the title, page 1, lines 6 and 7, by reinstating the stricken material beginning with "DEFINING" and ending with "OWNERS", deleting the comma after "MOTORISTS" and inserting in lieu thereof the word "AND".

regulations, and positive notification of all involved landowners and lessees has been made.

Section 10. There is a new section to be numbered 81-2710, R.C.M. 1947, which reads as follows:

81-2710. **Composition and duties of advisory council — governor may appoint.** (1) If the governor appoints a natural areas advisory council, the council shall consist of seven (7) citizens of the state, four (4) of whom shall possess experience in the evaluation and preservation of natural areas, and one (1) member each from agriculture, ranching and industry. The council shall make recommendations to the board for the administration of the natural areas system and additions thereto from state, federal, county or private land.

(2) Within ninety (90) days of the receipt of a council recommendation the board shall:

(a) In the case of state trust lands and existing designated areas promulgate a rule designating a recommended natural area contained in the recommendation and adopting the recommendation, or issue a written statement of its reasons for denying the recommendation.

(b) In the case of federal, private or county land direct the department to begin investigation and negotiation to acquire by purchase or trade interests in the land necessary to protect the natural area, or issue a written statement of its reasons for denying the recommendation.

Section 11. There is a new section to be numbered 81-2711, R.C.M. 1947, which reads as follows:

81-2711. **Consultation with interested parties — proceedings and files to be open.** The board and the natural areas advisory council shall consult with citizen organizations and other interested state agencies in the administration of this act. All files and proceedings under this act shall be open to the public.

Section 12. There is a new section to be numbered 81-2712, R.C.M. 1947, which reads as follows:

81-2712. **When more restrictive provisions to apply.** A designated natural area that is or shall become a part of a state park, wildlife refuge, or similar area shall be subject to the provisions of this act and the laws under which the other areas may be administered and in the case of conflict between the provisions of these laws the more restrictive provisions shall apply.

Section 13. There is a new section to be numbered 81-2713, R.C.M. 1947, which reads as follows:

81-2713. **Separability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 21, 1974

CHAPTER NO. 255

AN ACT DIRECTING THE DEPARTMENT OF HIGHWAYS TO CLAS-

SIFY OPEN RANGE AREAS ACCORDING TO THE DEGREE OF TRAFFIC HAZARD CREATED BY LIVESTOCK AND TO FENCE OUT LIVESTOCK IN THE MORE HAZARDOUS AREAS; AND AMENDING SECTIONS 32-2426, 32-2427 AND 32-2412, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 32-2425.1, R.C.M. 1947, which reads as follows:

32-2425.1. **Declaration of purpose.** It is the purpose of this act to balance the tradition of the open range and the economic and geographic problems of raising livestock with the need for safer highways and the policy of taking all feasible measures to reduce the high incidence of traffic accidents and fatalities on Montana highways.

Section 2. Section 32-2426, R.C.M. 1947, is amended to read as follows:

"32-2426. **Commission to fence along state highways through open range where livestock a hazard — gates — "open range" defined.** (1) The highway commission shall fence the right of way of any part of the state highway system that is constructed and/or reconstructed, after the effective date of this act, through open range where livestock present a hazard to the safety of the motorist where a fence is constructed, adequate stock gates or stock passes, as necessary, shall be provided to make land on either side of the highway usable for livestock purposes.

(2) For the *purposes* of this act, *as used in sections 2 through 6 [32-2426 through 32-2429, 32-2412]:*

(a) "Open range" means those areas of the state where livestock is raised and maintained in sufficient numbers as to constitute a significant part of the local or county economy and where such animals graze and move about generally unrestrained by fences.

(b) A "high hazard area" is a segment of the primary highway system passing through open range where livestock moves on or across the highway often enough, in enough numbers, and with enough ease of access that such animals create a significant traffic safety hazard. Evidence bearing on whether animals on the highway pose a significant hazard includes, without limitation, past accident records, the opinions of persons qualified by experience to evaluate the relative safety of road conditions, and the terrain around the road.

(c) A "low hazard area" is a segment of the primary highway system passing through open range which is not a high hazard area.

(d) "Livestock" means cattle, sheep, swine, horses, mules, and goats."

Section 3. Section 32-2427, R.C.M. 1947, is amended to read as follows:

"32-2427. **Department to delineate open range hazard areas.** *The*

department shall, by December 31, 1975, delineate the open range areas through which the primary highway system runs and classify, pursuant to section 4 [32-2428], such areas as high hazard areas or low hazard areas."

Section 4. There is a new section to be numbered 32-2428, R.C.M. 1947, which reads as follows:

32-2428. **Procedure for classifying state highways in open range.** The department shall study the primary highways in each county containing open range and, applying the criteria set out in section 32-2426, shall propose a division of such areas into high hazard and low hazard areas. The department shall publish an illustrated summary of its proposed classification of a county, in a newspaper of general daily or weekly circulation in that county, and the same publication shall give notice of a public hearing in the county within four (4) weeks. The department shall conduct this hearing on its proposed classification, and the record of the hearing shall include a statement of the department's reasons for its proposal as well as the views of the citizens interested in the proposal. Within four (4) weeks after the hearing, the department shall publish its final decision on the classification in the same format and newspaper used for the publication of the notice. For the purpose of judicial review, this final decision is a rule which may be reviewed by a district court as provided in section 82-4219.

Section 5. There is a new section to be numbered 32-2429, R.C.M. 1947, which reads as follows:

32-2429. **Department to fence where it has duty.** The department shall erect a fence in every high hazard area as promptly as possible, and the cost of such construction is an expenditure for the enforcement of federal aid highway safety programs. Gates, stock underpasses, water facilites, and cattle-guards may be installed where necessary to make the land on either side of the highway usable for livestock purposes or where a public right-of-way intersects the state highway.

Section 6. Section 32-2412, R.C.M. 1947, is amended to read as follows:

"32-2412. **Seeding along highways.** (1) After a federal-aid or state highway is constructed, the commission shall seed borrow pits, slopes and shoulders to an adaptable perennial grass or combination of perennial grasses and legumes whenever establishment of perennial grass covers seem suitable. The seed shall be certified.

(2) The commission shall seek joint recommendations and specifications as to time and method of seeding, fertilizing practices and grass species from the Montana extension service, the experiment station, and the soil conservation service.

(3) After a right of way in open range has been fenced pursuant to sections 32-2426 or 32-2427, the commission may seed the land within the fence to a grass which may be cropped for hay, and may lease such lands or sell the right to take such hay to qualified persons."

Approved March 21, 1974

CHAPTER NO. 256

AN ACT AMENDING SECTION 59-904, R.C.M. 1947, TO EXEMPT